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PART II—Section 2

Bills and Reports of Select Committees on Bills

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 6th February, 1952:—

BILL NO. 2 OF 1952

1 Bill further to amend the Prevention of Corruption Act, 1947.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Prevention of Corruption (Amendment) Act, 1952.

2. Amendment of section 1, Act II of 1947.—In sub-section (3) of section 1 of the Prevention of Corruption Act, 1947, for the words "five years" the words "ten years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Section 5 of the Prevention of Corruption Act, 1947, dealing with the offence of criminal misconduct in the discharge of their official duty by public servants was originally in force for three years up to the 10th March, 1950. By an amendment of the Act carried out in 1950, the section was continued in force till March, 1952. A Committee of some Members of Parliament under the Chairmanship of Dr. Bakshi Tek Chand, which has been examining matters dealing with corruption, has recommended that the section should be continued for another period of five years. Government have accepted this proposal and this Bill is intended to carry it out.

K. N. KATJU.

NEW DELHI:

The 9th January, 1952.

BILL No. 3 of 1952

A Bill further to amend the Delhi University Act, 1922.

Be it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Delhi University (Amendment) Act, 1952.

(2) This section and sections 26 and 27 shall come into force at once and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

2. Amendment of long title and preamble, Act VIII of 1922.—In the long title of, and the preamble to, the Delhi University Act, 1922 (hereinafter referred to as the principal Act), for the words “unitary teaching and residential University”, the words “teaching and affiliating University” shall be substituted.

3. Amendment of section 2, Act VIII of 1922.—In section 2 of the principal Act,—

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) ‘College’ means an institution maintained or admitted to its privileges by the University;

(b) ‘Hall’ means a unit of residence for students of the University provided, maintained or recognised by it;”;

(ii) clause (e) shall be omitted;

(iii) for clause (h), the following clause shall be substituted, namely:—

“(h) ‘teachers of the University’ means persons appointed or recognised by the University for the purpose of imparting instruction in the University or in any College.”

4. Amendment of section 4, Act VIII of 1922.—In section 4 of the principal Act,—

(i) for clause (2), the following clause shall be substituted, namely:—

“(2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(a) have pursued a course of study in the University or in any College, or

(b) are non-collegiate women students residing within the territorial jurisdiction of the University, or

(c) are teachers in educational institutions under conditions laid down in the Statutes and Ordinances and have passed the examinations of the University under like conditions;”;

(ii) in clause (8), the words “in accordance with the Statutes and the Regulations” shall be omitted;

(iii) for clause (9), the following clause shall be substituted, namely:—

“(9) to maintain Colleges and Halls, to admit to its privileges Colleges not maintained by the University and to withdraw all or any of those privileges, and to recognise Halls not maintained by the University and to withdraw any such recognition;”;

(iv) for clause (12), the following clauses shall be substituted, namely:—

“(12) to make special arrangements in respect of the residence, discipline and teaching of women students,

(12A) to create administrative and ministerial and other necessary posts and to make appointments thereto, and”.

5. Amendment of section 5, Act VIII of 1922.—In section 5 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “beyond a radius of 10 miles from the Convocation Hall of the University” and “that limit”, the words “beyond the limits of the State of Delhi” and “those limits” shall, respectively, be substituted;

(b) the proviso shall be omitted;

(ii) in sub-section (2), for the words “afore-mentioned limit” and “that limit”, the words “afore-mentioned limits” and “those limits” shall, respectively, be substituted.

6. Amendment of section 6, Act VIII of 1922.—In section 6 of the principal Act,—

(i) for the words “creed or class”, the words “creed, caste or class” shall be substituted;

(ii) the words “where such test is specially prescribed by the Statutes, or” shall be omitted; and

(iii) in the proviso, for the words and brackets “not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council”, the words “who have consented to receive it” shall be substituted.

7. Amendment of section 7, Act VIII of 1922.—In section 7 of the principal Act, sub-section (5) shall be omitted.

8. Insertion of new sections 7A and 7B in Act VIII of 1922.—After section 7 of the principal Act, the following sections shall be inserted, namely:—

"7A. Visitor.—(1) The President of India shall be the Visitor of the University.

(2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories and equipment and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the University.

(3) The Visitor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Visitor may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(5) The Executive Council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(6) Where the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall be bound to comply with such directions.

(7) Without prejudice to the foregoing provisions of this section the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order he shall call upon the University to show cause why such an order should not be made and, if any cause is shown within a reasonable time, shall consider the same.

7B. Chief Rector and Rectors.—(1) The Chief Commissioner of the State of Delhi shall be the Chief Rector of the University.

(2) Such persons, as may be appointed in this behalf in accordance with the Statutes, shall be the Rectors of the University.”

9. Amendment of section 8, Act VIII of 1922.—In section 8 of the principal Act,—

(i) for item (iv), the following item shall be substituted, namely:—

“(iv) the Pro-Vice-Chancellor, if any.”.

10. Omission of sections 9 to 15, Act VIII of 1922.—Sections 9 to 15 (inclusive) of the principal Act shall be omitted.

11. Substitution of new section for section 16, Act VIII of 1922.—For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. *Powers and duties of officers, etc.*—Subject to the provisions of this Act, the powers and duties of the officers of the University, the terms for which they shall hold office and the filling of casual vacancies in such offices shall be provided for by the Statutes.”

12. Amendment of section 17, Act VIII of 1922.—In section 17 of the principal Act, after item (iii), the following item shall be inserted, namely:—

“(iiiia) the Finance Committee.”.

13. Substitution of new section for section 18, Act VIII of 1922.—For section 18 of the principal Act, the following section shall be substituted, namely:—

“18. *The Court.*—The Court shall be the supreme authority of the University and shall have the power to review the acts of the Executive Council and the Academic Council (save when these authorities have acted in accordance with the powers conferred upon them under this Act, the Statutes or the Ordinances) and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.”

14. Omission of sections 19, 20, 22 and 24, Act VIII of 1922.—Sections 19, 20, 22 and 24 of the principal Act shall be omitted.

15. Substitution of new section for section 25, Act VIII of 1922.—For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. *Powers and duties of authorities of the University.*—Subject to the provisions of this Act, the constitution, powers and duties of the authorities of the University shall be provided for by the Statutes.”

16. Substitution of new section for section 28, Act VIII of 1922.—For section 28 of the principal Act, the following section shall be substituted, namely:—

“28. **Statutes.**—Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and duties of the Court, the Executive Council, the Academic Council, the Finance Committee and such other bodies as may be deemed necessary to constitute from time to time;

(b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members, and all other matters relative to those bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University;

(d) the constitution of a pension or provident fund and the establishment of an insurance scheme for the benefit of the officers, teachers and other employees of the University;

(e) the conferment of honorary degrees;

(f) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(g) the establishment and abolition of Faculties, Departments, Halls, Colleges and institutions;

(h) the conditions under which colleges and other institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(i) the institution of fellowships, scholarships, studentships, exhibitions, medals and prizes; and

(j) all other matters which by this Act are or may be provided for by the Statutes.”

17. Amendment of section 29, Act VIII of 1922.—In section 29 of the principal Act, for sub-sections (2) to (7) (inclusive), the following sub-sections shall be substituted, namely:—

“(2) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court, and such draft shall be considered by the Court at its next meeting.

(4) The Court may approve any such draft as is referred to in sub-section (3) and pass the Statutes or reject it or return it to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest:

Provided that the Executive Council shall not propose the draft of any Statute or of any amendment of a Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal, and any opinion so expressed shall be in writing and shall be considered by the Court.

(5) Any member of the Court may propose to the Court the draft of any Statute and the Court may either reject the proposal or refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.

(6) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or remit it for further consideration."

18. Substitution of new sections for sections 30 and 31, Act VIII of 1922.—For sections 30 and 31 of the principal Act, the following sections shall be substituted, namely:—

"30. *Ordinances*.—Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining of the same;

(d) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(e) the conditions of the award of fellowships, scholarships, studentships, exhibitions, medals and prizes;

- (f) the conduct of examinations, including the terms of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (g) the maintenance of discipline among the students of the University;
- (h) the conditions of residence of students at the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students, and the prescribing for them of special courses of study;
- (j) the giving of religious instruction;
- (k) the emoluments and the terms and conditions of service of teachers of the University;
- (l) the management of Colleges and other institutions founded or maintained by the University;
- (m) the **supervision** and **instruction** of Colleges and other institutions admitted to privileges of the University; and
- (n) all other matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

31. *Ordinances how made.*—(1) The Ordinances of the University as in force immediately before the commencement of the Delhi University (Amendment) Act, 1952, may be amended, repealed or added to at any time by the Executive Council:

Provided that—

- (i) no Ordinance shall be made affecting the conditions of residence or discipline of students, except after consultation with the Academic Council;
- (ii) no Ordinance shall be made—
 - (a) affecting the admission or enrolment of students or prescribing examinations to be recognised as equivalent to the University examinations, or
 - (b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (1) but may reject the proposal or return

the draft to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(3) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Central Government and the Central Government may, by order, direct that the proposed Ordinance shall be laid before the next meeting of the Court for its approval and that pending such approval it shall have effect from such date as may be specified in the order:

Provided that if the Ordinance is not approved by the Court at such meeting, it shall cease to have effect.

(4) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor and the Court, and shall be considered by the Court at its next meeting and the Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall from the date of such resolution cease to have effect.

(5) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) The Visitor may, at any time after an Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance such Ordinance shall cease to have effect."

19. Amendment of section 32, Act VIII of 1922.—In section 32 of the principal Act,—

(i) in sub-section (1), the words "and the Boards" shall be omitted, and for the words "and Boards" in clause (c) the words "or Committees appointed by them" shall be substituted;

(ii) in the proviso to sub-section (3), for the words "Central Government" the word "Court" shall be substituted.

20. Amendment of section 33, Act VIII of 1922.—In section 33 of the principal Act, the words "the Statutes and" shall be omitted.

21. Amendment of section 35, Act VIII of 1922.—In sub-section (2) of section 35 of the principal Act, for the word "Statutes" the word "Ordinances" shall be substituted.

22. Omission of sections 36 and 37, Act VIII of 1922.—Sections 36 and 37 of the principal Act shall be omitted.

23. Substitution of new section for section 39, Act VIII of 1922.—For section 39 of the principal Act, the following section shall be substituted, namely:—

“39. Audit of accounts.—(1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.

(2) The accounts, when audited, shall be published in the Gazette of India, and a copy of the accounts together with the audit report shall be submitted by the University to the Visitor”.

24. Omission of section 40, Act VIII of 1922.—Section 40 of the principal Act shall be omitted.

25. Substitution of new section for section 45, Act VIII of 1922.—For section 45 of the principal Act, the following section shall be substituted, namely:—

“45. Conditions of service of officers and teachers.—(1) Every salaried officer and teacher of the University shall be appointed under a written contract, which shall be lodged with the University and a copy thereof shall be furnished to the officer or teacher concerned.

(2) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned or at the instance of the University, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visitor, and the decision of the Tribunal shall be final.”

26. Temporary provisions for amendment of Statutes.—The Central Government may, by notification in the Official Gazette, make such adaptations and modifications in the Statutes in force immediately before the commencement of this Act as in its opinion may be necessary or expedient to bring the provisions of the Statutes into accord with the provisions of the principal Act as amended by this Act:

Provided that nothing in this section shall be deemed to empower the Central Government to make any adaptation or modification of any such Statutes after the expiration of three months from the date on which this Act is brought into force by the Central Government under sub-section (2) of section 1.

27. Transitional provisions.—Any officer or authority of the University exercising any functions under the principal Act immediately before the commencement of this Act, shall continue to exercise such functions until the corresponding new officer or authority is appointed, elected or constituted in accordance with the provisions of the principal Act as amended by this Act or the Statutes as adapted or modified under this Act.

STATEMENT OF OBJECTS AND REASONS

The University Education Commission, while making certain recommendations in regard to University education generally, also dealt with certain special problems relating to the Central Universities at Benares, Aligarh and Delhi. These recommendations were generally approved by the Central Advisory Board of Education at their meeting in April, 1950. While the amendments necessitated by the acceptance of these recommendations could be given effect to during the last session of Parliament with respect to the Aligarh Muslim University Act and the Benares Hindu University Act, time did not permit of similar amendments being carried out with respect to the Delhi University Act, 1922.

The amendments contained in the present Bill are identical with those accepted by Parliament in regard to the Benares Hindu University Act and the Aligarh Muslim University Act after detailed consideration by a Select Committee and full discussion in Parliament. The main features of this Bill, as in the case of the other two Bills, are that religious instruction is to be given only to those who wish to receive it as required by article 28(3) of the Constitution, and that the President of India is to be the Visitor of the University. Power is assumed for a temporary period, as in the case of the other two Bills, to make modifications in the Statutes so as to bring them into accord with the principal Act as now amended and the recommendations of the University Education Commission. The other amendments proposed do not call for any detailed comments.

A. K. AZAD.

NEW DELHI;

The 22nd January, 1952.

BILL NO. 4 OF 1952

A Bill to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Independence Pakistan Courts (Pending Proceedings) Act, 1952.

2. Definition.—In this Act, the expression “decree to which this Act applies” means any such judgment, decree or order as is referred to in—

- (i) clause (3) of article 4 of the Indian Independence (Legal Proceedings) Order, 1947, or
- (ii) paragraph (5) or paragraph (6) of article 13 of the High Courts (Bengal) Order, 1947, or
- (iii) paragraph (4) or paragraph (6) of the High Courts (Punjab) Order, 1947,

which has been passed by a court in Pakistan and which imposes any liability or obligation on a Government in India.

3. Certain Pakistan decrees not to be given effect to in India.—Notwithstanding anything contained in any of the Orders referred to in section 2, no decree to which this Act applies shall be given effect to by any court or authority in India in so far as such decree imposes any liability or obligation on any Government in India.

4. Right of holder of a decree to which this Act applies to institute fresh proceedings in India.—Notwithstanding anything contained in section 3 of the Indian Limitation Act, 1908 (IX of 1908), any person in whose favour a decree to which this Act applies has been passed may, within one year from the commencement of this Act, institute a fresh suit or other legal proceeding in respect of the cause of action on which such decree was based, and any such suit or other legal proceeding may, notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (Act V of 1908), or in any other law or in any agreement to the contrary relating to the place of suing, be instituted in any court otherwise competent to try it, within the local limits of whose jurisdiction the person instituting it voluntarily resides or carries on business or personally works for gain.

5. Repeal of Ordinance VI of 1951.—(1) The Indian Independence Pakistan Courts (Pending Proceedings) Ordinance, 1951 (VI of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

Special Orders were passed under the Indian Independence Act, 1947, providing for the continuance of proceedings in courts in Bengal, Assam and the Punjab which, by reason of partition, became proceedings pending in courts in the Dominion of Pakistan and the Dominion of India respectively. These Orders further provided that effect shall be given within the territories of one Dominion to any judgment, decree or order of any court in the other Dominion passed in such pending proceedings as if it had been passed by a court of competent jurisdiction within that Dominion.

Considerable difficulties have been and are being experienced by the Government of India in defending suits and proceedings pending in Pakistan courts to which the Government is a party. The governmental machinery for legal aid in Pakistan is not available and until

recently there was no regular arrangement for obtaining legal aid in Pakistan on behalf of the Central Government. Even when an advocate was available, it was often found difficult to send instructions to him in time. Consequently, in many cases the Government could not be properly represented; and, further, certain decisions leave behind a feeling that the cases have not been properly dealt with by those courts. The same difficulties are being experienced by the Governments of Punjab, West Bengal and Assam in suits against them which were pending in Pakistan courts on the date of partition.

Although there is no reason to think that any similar difficulties exist in India in respect of the far fewer proceedings pending against any Pakistan Government in this country, Pakistan has thought fit to provide, in language somewhat obscure, that no decree or order passed by a court in India in such proceedings shall receive any effect in Pakistan; *vide* Pakistan (Indian Independence Legal Proceedings) Order, 1948, and the Pakistan High Courts (Bengal) Order, 1949. Any doubt as to the intention underlying these Orders has been completely dispelled by a statement of the Advocate-General of East Bengal who, appearing in a recent case before the Supreme Court, relied on these Orders for the proposition that any decree that might eventually be passed by an Indian court in such pending proceedings would not be given effect to in Pakistan.

It is necessary, therefore, that the position of the Government of India and the three State Governments concerned should be safeguarded so that decrees and orders of Pakistan courts in proceedings pending before those courts on the date of partition may not be automatically executable in India. Legislation overriding the Orders under the Indian Independence Act is necessary for this purpose. No other decrees require any such safeguards because they are not automatically executable in India.

In order that this legislation does not work hardship in the case of persons in India who may have obtained decrees in Pakistan against a Government in India, an alternative remedy by way of suit in this country is being provided in clause 4 of this Bill, and the bar of local jurisdiction and limitation is being waived in such cases.

In view of the urgency of the matter an Ordinance on the above lines was promulgated on the 29th October, 1951, and the present Bill, when passed, will repeal and replace that Ordinance.

NEW DELHI;

The 24th January, 1952.

KAILAS NATH KATJU.

BILL NO. 5 OF 1952

A Bill to provide for the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Uttar Pradesh Cantonments (Control of Rent and Eviction) Act, 1952.

(2) It extends to all the cantonments in the State of Uttar Pradesh.

2. Act not to apply to certain accommodation.—Nothing contained in this Act shall apply to—

(a) any premises belonging to the Government;

(b) any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; or

(c) any house which is, or may hereafter be, appropriated by the Central Government on lease under the Cantonments (House-Accommodation) Act, 1923 (VI of 1923).

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) “accommodation” means house accommodation in any cantonment to which this Act applies, and includes—

(i) the gardens, grounds or outhouses, if any, appurtenant to the house or any part thereof;

(ii) any furniture supplied by the landlord for use in the house or any part thereof;

(iii) any fittings affixed to the house or any part of the house for the more beneficial enjoyment thereof;

(b) “district magistrate” includes an officer authorised by a district magistrate to perform any of his functions under this Act;

(c) “landlord” means a person to whom rent is payable by a tenant in respect of any accommodation, and includes—

(i) the agent, attorney, heir or assignee of the landlord, and

(ii) a tenant in relation to a sub-tenant;

(d) “lease” includes a sub-lease;

(e) “municipal assessment” means—

(i) in respect of accommodation which was assessed by a cantonment board on or before the 1st day of April, 1942, the annual rental value so assessed and in force on the said date, and

(ii) in respect of accommodation which was assessed by a cantonment board after the said date, the annual rental value first assessed after the said date;

(f) “officer commanding the station” means the military officer for the time being in command of the forces in a cantonment or, if that officer is the Officer Commanding the Area or Officer Commanding-in-Chief, the Command, the military officer who would be in command of those forces in the absence of the Officer Commanding the Area and Officer Commanding-in-Chief, the Command, and includes any military officer authorised by the officer commanding the station to exercise the powers of an officer commanding the station under this Act;

(g) “reasonable annual rent” means—

(1) in the case of accommodation constructed before the 1st day of October, 1946,—

(i) if it is separately assessed to municipal assessment, its municipal assessment plus twenty-five per cent. thereon;

(ii) if it is a part only of the accommodation so assessed, the proportionate amount of the municipal assessment of such accommodation plus twenty-five per cent. thereon;

(iii) if it is not assessed to municipal assessment—

(a) if it was held by a tenant on rent between the 1st day of April, 1942 and the 30th day of September, 1946, fifteen times the rent for the one month nearest to and after the 1st day of April, 1942; and

(b) if it was not so held on rent, the amount determined under section 7; and

(2) in the case of accommodation constructed on or after the 1st day of October, 1946, the rent determined in accordance with section 7;

(h) "tenant" means the person by whom rent is, or, but for a contract express or implied, would be, payable for any accommodation, and includes any person holding or occupying the accommodation as a sub-tenant.

4. Control of rent.—(1) Except as hereafter in this section provided, the rent payable for any accommodation shall be such as may be agreed upon between the landlord and the tenant.

(2) Where the rent for any accommodation has not been agreed upon, or where in the case of tenancies continuing from any date before the 1st day of October, 1946, the landlord wishes to enhance the rent agreed upon, he may, by notice in writing, fix the annual rent at, or enhance it to an amount not exceeding, the reasonable annual rent;

Provided that the enhanced rent shall not exceed the rent, if any, payable on the 1st day of October, 1946, by more than fifty per cent. thereof:

Provided further that nothing in this section shall entitle the landlord to enhance the rent in the case of leases for a fixed term during the continuance of the term unless so permitted by the contract of tenancy.

(3) If any accommodation is let after the 16th day of January, 1952, without the rent being agreed upon between the landlord and the tenant, the rent fixed under sub-section (2) shall be payable from the date of commencement of the tenancy and where the rent agreed upon is enhanced under the said sub-section, the enhanced rent shall be payable from the first day of the month next after the month in which the notice is given.

(4) If the landlord claims that the reasonable annual rent of any accommodation is inadequate, or if the tenant claims that the reasonable annual rent is excessive or that the agreed rent is higher than the reasonable annual rent, he may institute a suit for fixation of rent in the court of the munsiff having territorial jurisdiction if the annual rent claimed or payable is five hundred rupees or less, and if it exceeds five hundred rupees, in the court of the civil judge having territorial jurisdiction or, if there is no such civil judge, in the court of the district judge:

Provided that the court shall not vary the agreed rent unless it is satisfied that the transaction was unfair and, in the case of a lease for a fixed term made before the 1st day of April, 1942, that the term has expired.

(5) Notwithstanding anything contained in sub-sections (1), (2) and (3), the rent fixed by the court under sub-section (4) shall, so long as this Act remains in force, be payable by the tenant and from such date as the court may direct.

*Explanation.—*For the purposes of this section, "accommodation" includes any accommodation let on a monthly basis.

5. Procedure in suits under section 4.—In determining the amount of annual or monthly rent in any suit under sub-section (4) of section 4, the court shall take into account—

(a) in the case of accommodation constructed before the 1st day of October, 1946, the pre-war rent, the reasonable annual or monthly rent, the prevailing rent on the date of the suit for similar accommodation in the locality, the cost of maintenance of, and repairs to, such accommodation, and any other material circumstances provided by the plaintiff or the defendant;

(b) in the case of accommodation constructed on or after the said date, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other circumstances which the court may consider material.

6. Bar of appeals from decrees or orders in suits under section 4.—No appeal shall lie from any decree or order of the munsiff, the civil judge or the district judge, as the case may be, in a suit brought under sub-section (4) of section 4:

Provided that the decree or order so passed (except in so far as it relates to the amount of rent) shall not operate as *res judicata* between the parties or their representatives in interest in any suit or proceeding under any other law.

7. Determination of reasonable annual rent in certain cases.—(1) In the case of any accommodation constructed after the 30th day of September, 1946, or falling within item (b) of sub-clause (1) (iii) of clause (g) of section 3, the district magistrate may, on the application of the landlord or the tenant, determine the reasonable annual rent thereof.

(2) In determining the reasonable annual rent under sub-section (1), the district magistrate shall take into account—

(a) in the case of accommodation constructed after the 30th day of September, 1946, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other matter which in the opinion of the district magistrate is material, and

(b) in the case of accommodation falling within item (b) of sub-clause (1) (iii) of clause (g) of section 3, the matters set out in clause (a) of section 5.

(3) Subject to the result of any suit filed under sub-section (4) of section 4, the amount fixed by the district magistrate under this section shall be the reasonable annual rent of the accommodation.

8. Unlawful charges not to be claimed or received.—(1) Subject to the provisions of this Act, no person shall be entitled to claim or to receive any rent in excess of the rent payable under this Act notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, continuance or renewal of any tenancy, claim or receive any premium or other like sum in addition to the rent payable under this Act.

9. Control of letting.—(1) The officer commanding the station may, by general or special order, require a landlord to give intimation that any accommodation of which he is the landlord has fallen vacant and to let or not to let such accommodation to any person.

(2) Every tenant occupying accommodation shall, within seven days of his vacating such accommodation, give intimation thereof in writing to the officer commanding the station.

(3) The officer commanding the station may, on application being made to him by the landlord require a prospective tenant of any accommodation in respect of which an order has been made under this section to pay to the landlord an advance of rent equal—

(a) to one month's rent, where the accommodation is to be let on a monthly basis, and

(b) to one-half of the yearly rent where the accommodation is to be let on a yearly basis.

(4) In respect of any accommodation constructed after the 1st day of October, 1946, in respect of which he has to pass an order under sub-section (1), the officer commanding the station shall allot it to the owner if the owner, not being in occupation of any other house owned by him in the cantonment, genuinely requires such accommodation for his own residence.

Explanation I.—Any accommodation newly constructed shall be deemed to be vacant as soon as it is fit for occupation.

Explanation II.—For the purposes of this section “letting” includes sub-letting.

10. Eviction of persons occupying accommodation in contravention of section 9.—(1) Where in pursuance of an order of the officer commanding the station under sub-section (1) of section 9 the vacancy of any accommodation is required to be reported and is not so reported, or where an order requiring any accommodation to be let or not to be let has been duly passed under that sub-section and the officer commanding the station believes, or has reason to believe, that any person has, in contravention of such order, occupied the accommodation or any part thereof, he may call upon the person in occupation to show cause, within such time as may be fixed by him, why he should not be evicted therefrom:

Provided that no order under this section shall be made if the officer commanding the station is of opinion that due to lapse of time or other causes it is inexpedient to do so.

(2) If such person fails to appear in reply to the notice served under sub-section (1) or, if he appears but fails to satisfy the officer commanding the station that the order under sub-section (1) of section 9 was not duly passed and that he is entitled to remain in occupation of the accommodation, the officer commanding the station may, without prejudice to any other action which may be taken against him under this Act or any other law for the time being in force, direct him to vacate the premises within such period as he may specify.

(3) Upon the making of an order under sub-section (2), the person against whom the order is made and any other person claiming under him shall vacate the accommodation and if the person does not vacate the accommodation within the time allowed or such extended period as the officer commanding the station may, on cause shown, allow, the officer commanding the station may evict, or cause to be evicted, the person or persons concerned and may use such force as may be necessary for carrying out the order and also put the person entitled under sub-section (1) of section 9 in occupation of the accommodation.

(4) No appeal shall lie from any order passed by the officer commanding the station under this section, but the Central Government or any person authorised by it in this behalf may revise the said order if it is satisfied that the officer commanding the station has acted illegally or with material irregularity or has wrongly refused to act, and may make such order in relation thereto as it thinks fit.

11. Eviction of tenants occupying accommodation under section 9.—

(1) Where any tenant who is in occupation of any accommodation in pursuance of an order made under sub-section (1) of section 9 is in arrears of rent for more than three months, the landlord may make an application to the munsiff having territorial jurisdiction for an order of eviction of the tenant from the accommodation.

(2) Every application under sub-section (1) shall contain the following particulars, namely:—

(a) the name of the landlord and, where there are more landlords than one, the names of all the landlords;

(b) a sufficient description of the accommodation from which the tenant is to be evicted or a copy of the order of allotment;

(c) the arrears claimed and the rate at which they are claimed;

(d) where the rent has already been determined in a suit under sub-section (4) of section 4, the fact that it has been so determined; and shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, 1908 (Act V of 1908).

(3) On the making of an application under sub-section (1), the munsiff shall, without unnecessary delay, cause a notice to be served on the tenant in the manner prescribed by rules under this Act requiring him to pay the amount of arrears within fifteen days of the service thereof or to show cause within the said period why an order evicting him from the accommodation be not passed against him.

(4) If within the time allowed in the notice under sub-section (3) the tenant pays into court the amount mentioned therein, the munsiff shall dismiss the application and direct the amount to be deposited to be paid to the landlord in satisfaction of the arrears and shall make such order as to costs as may appear to him to be just and proper.

(5) Where the tenant has been duly served with a notice under sub-section (3) but fails to deposit the amount mentioned within the time allowed therein and does not file any objection thereto, the munsiff shall, notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (IV of 1882), make an order directing that the tenant be evicted from the accommodation and that he shall pay the costs of the application.

(6) As soon as may be after an order has been passed under sub-section (5) the munsiff shall forward a copy of the same to the district magistrate and thereupon the district magistrate shall cause the tenant to be evicted from the accommodation, using or causing to be used such force as may be necessary for the purpose, and nothing contained in the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to any such proceedings:

Provided that if the tenant at any time before his eviction deposits the amount due in the treasury or pays the landlord or the officer charged with the execution of the order for the delivery of possession the amount of arrears together with all the costs of the proceeding, the tenant shall not

be evicted from the accommodation and the district magistrate shall report the proceedings to the munsiff who shall make an order quashing the proceedings:

Provided further that the district magistrate may, for sufficient reasons, allow such time as he may think fit to the tenant to pay the amount for which an order of eviction has been passed against him.

(7) Any order made under sub-section (5) or anything done or any action taken under sub-section (6) shall not be deemed in any way to affect the question of title to the property to which it relates.

12. Proceedings under section 11 may be converted into suits in certain cases.—(1) Where a tenant appears in reply to a notice under sub-section (3) of section 11 and files an objection, other than an objection as to the costs of the proceedings merely, the munsiff shall inform the applicant that he may, subject to the payment within such time as may be specified of the court-fee in respect thereof, have the application treated as a plaint in a suit for the recovery of arrears of rent alone:

Provided that the tenant shall not be permitted to file any objection unless he deposits in court the amount mentioned in the notice.

(2) If the applicant pays the necessary court-fee within the time allowed, the application shall be treated as a plaint and the proceedings as a suit and disposed of accordingly, but if no court-fee is so deposited the proceedings shall be quashed, without prejudice to the right of the applicant to file, subject to any other law for the time being in force, a separate suit for ejectment and recovery of arrears.

13. Special costs for frivolous or vexatious applications or objections.—Whenever the munsiff finds that an application by the landlord under section 11 or any objection filed by the tenant under section 12 is frivolous or vexatious, he shall award, by way of special costs, to the tenant or the landlord, as the case may be, such sum not exceeding the amount of the claim as he may think fit.

14. Restrictions on eviction.—No suit shall, without the permission of the district magistrate, be filed in any civil court against a tenant for his eviction from any accommodation except on one or more of the following grounds, namely:—

(a) that the tenant has wilfully failed to make payment to the landlord of any arrears of rent within one month of the service upon him of a notice of demand from the landlord;

(b) that the tenant has wilfully caused or permitted to be caused substantial damage to the accommodation;

(c) that the tenant has, without the permission of the landlord, made or permitted to be made any such construction as in the opinion of the court has materially altered the accommodation or is likely substantially to diminish its value;

(d) that the tenant has created a nuisance or has done any act which is inconsistent with the purpose for which he was admitted to the tenancy of the accommodation or which is likely to affect adversely and substantially the landlord's interest therein;

(e) that the tenant has sub-let the whole or any portion of the accommodation without the permission of the landlord;

(f) that the tenant has renounced his character as such or has denied the title of the landlord and the latter has not waived his right or condoned the conduct of the tenant.

Explanation.—For the purposes of clause (e), a person lodging another person in any accommodation which is a hotel or a lodging house shall not be deemed to have sub-let such accommodation.

15. Penalty.—Any person who contravenes any of the provisions of this Act or any order made in pursuance thereof shall be punishable, on conviction, with simple imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both.

16. Attempts, etc.—Any person who attempts to contravene or abets a contravention of any order made under this Act shall be deemed to have contravened that order.

17. Offences by companies.—(1) If the person contravening any order made under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate, and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

18. Act to over-ride other laws.—The provisions of this Act and of any orders or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

19. Pending suits for eviction.—In all suits for eviction of a tenant from any accommodation pending on the date of commencement of this Act, no decree for eviction shall be passed except on one or more of the grounds mentioned in section 14.

20. Execution of pending decrees for eviction.—Any decree for the eviction of a tenant from any accommodation passed before the commencement of this Act, in so far as it relates to the eviction of such tenant, shall not be capable of execution unless the decree is based on one or more of the grounds specified in section 14:

Provided that where the decree is based on the ground specified in clause (a) of section 14, the decree shall not be capable of execution if the tenant pays to the landlord or deposits in court the arrears of rent due from him together with all the costs of the proceedings and also agrees to pay to the landlord the reasonable annual rent or the rent payable by him before the passing of the decree, whichever is lower.

21. Orders under Act not to be questioned in any court.—Save as otherwise provided in this Act, no order made thereunder by the Government or the district magistrate or the officer commanding the station shall be called in question in any court.

22. Protection for action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

23. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which any notice under this Act may be served;

(b) the procedure to be followed by district magistrates in the disposal of any proceedings under this Act;

(c) the manner in which and the conditions subject to which officers commanding the station may exercise their powers under this Act.

24. Repeal of Ordinance II of 1952.—(1) The Uttar Pradesh Cantonments (Control of Rent and Eviction) Ordinance, 1952 (II of 1952) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

Under article 246 of the Constitution read with Entry 3 of the Union Legislative List, power to make laws with respect to rent control in cantonment areas now belongs exclusively to Parliament. Before the Constitution came into force, this power belonged to the former Provincial Legislatures and in most Provinces the Provincial Rent Control Act was applied to cantonment areas and these Acts have continued in force in those areas. In Uttar Pradesh, however, due to a misunderstanding of the constitutional position, the cantonment areas were unfortunately excluded from the application of the Provincial Act by an amendment made shortly before the commencement of the new Constitution, with the result that there is no rent control law in force in the cantonments in that State.

2. The residents of the cantonments in Uttar Pradesh have been representing that they are being put to very grave hardship by reason of the removal of the rent control which was in force from 1947 to 1949. As rent control had not been operating in Cantonments in Uttar Pradesh for nearly two years and as the absence of such control had resulted in

considerable hardship to tenants, an Ordinance, namely the Uttar Pradesh Cantonments (Control of Rent and Eviction) Ordinance, 1952 (No. II of 1952) was promulgated on the 16th January, 1952, providing for the restriction of rents and protection against eviction, generally on the lines of the rent control law in force in the State. The Ordinance is applicable only to the cantonments in Uttar Pradesh, since cantonments in the other Part 'A' States and Part 'C' States (former Provinces) are covered by existing State law, and the problem has so far not arisen in the two or three cantonments situated in Part 'B' States.

3. As the necessity for the control of rents and eviction in cantonment areas of Uttar Pradesh is likely to continue for some considerable time, it is essential to replace the said Ordinance II of 1952 by an Act.

BALDEV SINGH.

NEW DELHI;

The 23rd January, 1952.

M. N. KAUL,
Secretary.